



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
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MEMORANDUM FOR HEADS OF DESIGNATED EXECUTIVE DEPARTMENTS
AND AGENCIES

FROM: Joseph R. Wright, Jr. 
SUBJECT: Agency Operations in the Absence of Appropriations

1. Once again, regular appropriations bills for some Executive branch departments and agencies may not be signed into law by midnight Sunday, September 30, 1984. Thus far, only four of the regular appropriations bills for FY 85 have been signed into law: Commerce/Justice/State; Energy/Water; HUD/Independent Agencies; and the Legislative Branch. However, the following nine (9) have not:

- Agriculture and Related Agencies
- Defense
- District of Columbia
- Foreign Operations
- Interior
- Labor, Health and Human Services, Education
- Military Construction
- Transportation
- Treasury, Postal Service, and General Government

2. While it is possible that some of the above bills could be signed before midnight, September 30, the Congress is currently considering a Continuing Resolution to provide funds for those agencies whose appropriations bills will not be completed by that time. Naturally, the President hopes that an acceptable Continuing Resolution will be enacted; however, prudence dictates

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that fully operational contingency plans be in effect if this does not happen. Each affected agency therefore should begin to engage in active contingency planning as if an appropriations hiatus will occur at midnight September 30, 1984.

3. A list of agencies affected by the Continuing Resolution may be found in the appendix to this memorandum.

4. OMB Bulletin 80-14, dated August 28, 1980 (and amended by the OMB Director's memorandum of November 17, 1981) requires all agencies to maintain such plans to deal with an appropriations hiatus. Furthermore, the Attorney General's opinion dated January 16, 1981, supporting this bulletin remains in effect. In general:

- o All employees of affected agencies performing non-excepted activities (as defined by the Attorney General's opinion) are not permitted to perform any services other than those involved in the orderly suspension of non-excepted activities.
- o The Antideficiency Act does not permit agencies to accept voluntary performance of non-excepted services.
- o Agency Heads make the determinations that are necessary to operate their agencies during an appropriations hiatus (within the guidance established by the Attorney General's opinion and this Memorandum, and pursuant to normal agency processes for the resolution of issues of law and policy).
 - Questions that cannot be answered by an agency should be addressed to their OMB budget examiners or to OMB Counsel Michael J. Horowitz (395-4852).
 - Any unresolved legal questions relative to the construction of the Antideficiency Act will be jointly referred to the Office of Legal Counsel of the Department of Justice.

5. Affected agencies should review their September 1983 shutdown plans. Any changes should be submitted to their OMB budget examiners by c.o.b. today. If no changes are submitted, OMB will assume that the September 1983 shutdown plan is in effect.

- o Excepted Employees -- All excepted employees pursuant to the agency plan and the Attorney General's opinion of January 16, 1981, should be instructed on Friday, September 28 to report to work on Monday and to perform their excepted duties.

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- o All Other Employees -- All regular employees performing non-excepted activities should be instructed on Friday, September 28, to report for work on Monday, October 1 as scheduled in the absence of an enacted Continuing Resolution. At that time, OMB will have informed affected agencies whether an acceptable Continuing Resolution is likely to be enacted on that day. If not, instructions will be issued for affected agencies to initiate phasedown activities for non-excepted employees. Such phasedown activities for non-excepted personnel, if called for, should be completed during the first three hours of the Monday, October 1 workday.

6. Please assure that your agency is in close touch with OMB examiners as planning proceeds on this matter, and please be prepared for OEOP planning meetings at the General Counsel/Assistant Secretary for Management level that may be called for late Thursday, September 27, or Friday, September 28. OMB examiners should be notified immediately of any problems relative to full compliance with this Memorandum or the Attorney General's opinion.

APPENDIX

APPROPRIATION BILL: AGRICULTURE AND RELATED AGENCIES

Department of Agriculture (except Forest Service)
Department of HHS, Food and Drug Administration
Commodity Futures Trading Commission
Farm Credit Administration

APPROPRIATION BILL: DEFENSE

Department of Defense--Military
Central Intelligence Agency
Intelligence Community Staff

APPROPRIATION BILL: DISTRICT OF COLUMBIA

District of Columbia

APPROPRIATION BILL: FOREIGN OPERATIONS

Department of State
Department of Defense
Agency for International Development
Department of Agriculture
Export-Import Bank of the United States

APPROPRIATION BILL: INTERIOR

Department of Agriculture, Forest Service
Department of the Interior (except Bureau of Reclamation)
Department of Energy
 Energy conservation
 Fossil energy R&D
 Strategic Petroleum Reserve
Department of Education, Indian education
Department of HHS, Indian Health
National Foundation on the Arts and Humanities
Pennsylvania Avenue Development Corporation
Smithsonian Institution

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Advisory Council on Historic Preservation
Commission of Fine Arts
Franklin Delano Roosevelt Memorial Commission
National Capital Planning Commission
Institute of Museum Services
Native Hawaiians Study Commission
Office of the Federal Inspector for the Alaska Natural Gas
Transportation System
Navajo and Hopi Indian Relocation Commission
United States Holocaust Memorial Council

APPROPRIATION BILL: LABOR, HHS, EDUCATION

Department of Labor
Department of Health and Human Services (except where noted
otherwise)
Department of Education (except Indian education)
ACTION
Corporation for Public Broadcasting
National Labor Relations Board
Railroad Retirement Board
Department of Defense-Civil
Soldiers' and Airmen's Home
Federal Mediation and Conciliation Service
Federal Mine Safety and Health Review Commission
National Commission on Libraries and Information Science
National Mediation Board
Occupational Safety and Health Review Commission

APPROPRIATION BILL: MILITARY CONSTRUCTION

Department of Defense

APPROPRIATION BILL: TRANSPORTATION

Department of Transportation (except Maritime Administration)
Architectural and Transportation Barriers Compliance Board
Civil Aeronautics Board
Panama Canal Commission
Washington Metropolitan Area Transit Authority
Interstate Commerce Commission
National Transportation Safety Board
United States Railway Association

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**APPROPRIATION BILL: TREASURY, POSTAL SERVICE, AND GENERAL
GOVERNMENT**

Legislative Branch, U.S. Tax Court

Executive Office of the President

The White House Office

Council of Economic Advisers

National Security Council

Office of Administration

Office of Management and Budget

Office of Policy Development

Property Review Board

Special Action Office for Drug Abuse Prevention

Department of the Treasury (except revenue sharing)

Office of the Secretary

Federal Law Enforcement Training Center

Bureau of Alcohol, Tobacco and Firearms

United States Customs Service

Bureau of Engraving and Printing

Bureau of the Mint

Bureau of the Public Debt

Internal Revenue Service

United States Secret Service

Other Independent Agencies

Administrative Conference of the United States

Advisory Committee on Federal Pay

Committee for Purchase from the Blind and Other

Severely Handicapped

Federal Election Commission

Federal Labor Relations Authority

General Services Administration (except as noted
otherwise)

Advisory Commission on Intergovernmental Relations

Merit Systems Protection Board

Office of Personnel Management

Postal Service